

NOV 21 2002

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)	
DEPARTMENT OF INSURANCE,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
PETITIONER,)	RECOMMENDED ORDER AND
)	ORDER
VS.)	
)	
MELVIN WESLEY CLARK, JR.,)	
)	CAUSE NO. A-1485
)	
RESPONDENT.)	

This matter came on for hearing on the 19th day of November, 2002, before Michael Boyd, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Christy Neighbors. Melvin Wesley Clark, Jr. ("Respondent") was not present and was not represented by an attorney. The proceedings were tape recorded by Stacey Bellefeuille, a licensed Notary Public. Evidence was introduced, and the matter was taken under advisement. As a result of the hearing, the Hearing Officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent is a licensed resident Nebraska insurance producer whose current registered address with the Department is 268 North 115th Street, #5, Omaha, NE, 68154.
2. The Department is the agency of the State of Nebraska charged with licensing insurance agents and brokers.

3. The Department filed a Petition and Notice of Hearing on or about October 23, 2002, which were served upon the Respondent by mailing the same to his address of record by certified mail, return receipt requested. Respondent received the Petition and Notice of Hearing on October 25, 2002, as evidenced by the return receipt card attached to Exhibit #1.

4. The Department, in its Petition, alleged that Respondent violated Neb. Rev. Stat. § 44-4059(1) (b) which states that the Director may impose a fine, suspend or revoke an insurance producer's license if that person has been "violating any insurance law, or violating any rule, regulation, subpoena, or order of the director or of another state's insurance commissioner or director;" as a result of the following conduct:

- a. On or about June 25, 2002, Conni Little, an investigator with the Department of Insurance's Consumer Affairs Division, wrote the Respondent requesting that he provide the Department with information regarding the Bonnie Sue Riss complaint. The Respondent was informed that Neb. Rev. Stat. 44-1525 (11) required a response within fifteen working days. Said inquiry was sent via certified mail, return receipt requested. On or about June 27, 2002, Respondent received the inquiry as evidenced by the return receipt card attached to Exhibit #3. The Respondent failed to respond to the Department within fifteen working days after receipt of the inquiry.
- b. On or about July 23, 2002, Bruce Ramage, Chief of Market Regulation for the Department of Insurance, sent Respondent a second notice letter with a copy of the Conni Little letter of June 25, 2002. The Respondent was advised that his response to that letter had not been received, and again informed that Neb. Rev. Stat. 44-1525 (11) required a response within fifteen working days. Said inquiry was sent via certified mail, return receipt requested. On or about July 26, 2002, Respondent received the inquiry as evidenced by the return receipt card attached to Exhibit #4. The Respondent failed to respond to the Department within fifteen working days after receipt of the inquiry.
- c. On or about August 28, 2002, Jane Francis, Administrator of the Consumer Affairs Division, sent Respondent a third notice letter with a copy of the Conni Little letter of June 25, 2002. The Respondent was again advised that his requested response to that letter had not been received, and again informed that Neb. Rev. Stat. 44-1525 (11) required a response within

fifteen working days. Said inquiry was sent via certified mail, return receipt requested. On or about September 3, 2002, Respondent received the inquiry as evidenced by the return receipt card attached to Exhibit #5. The Respondent failed to respond to the Department within fifteen working days after receipt of the inquiry.

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over the licensing of Respondent to sell insurance in the State of Nebraska pursuant to Neb.Rev.Stat. § 44-101.01, § 44-4001 et seq. (repealed as of September 1, 2001), and § 44-4047 et seq. (effective as of September 1, 2001).
2. The Department has personal jurisdiction over Respondent.
3. The Respondent violated Neb.Rev.Stat. §§ 44-1525(11) and 44-4059(1)(b).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that the Respondent shall pay an administrative fine of \$1,500 within thirty (30) days of the date the Director of Insurance signs this Order. Further, the Respondent shall fully cooperate with the Department's Consumer Affairs Division inquiry into the Bonnie Sue Riss complaint by providing complete and detailed written responses to any and all requests received from the Department related to its investigation of that complaint. The Nebraska Department of Insurance shall retain jurisdiction of this matter for the purpose of enabling the Respondent or the Department to make application for such further orders as may be necessary.

Dated this 20th day of November, 2002.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



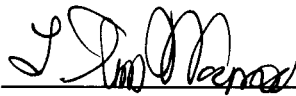
HEARING OFFICER

CERTIFICATE OF ADOPTION

I have reviewed the foregoing Findings of Fact, Conclusions of Law, and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of this Department in the matter of State of Nebraska Department of Insurance v. Melvin Wesley Clark, Jr., Cause No. A-1485.

Dated this 21st day of November, 2002.

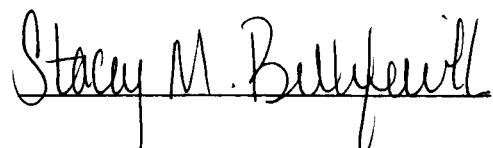
STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order, and Order was served upon the Respondent by mailing a copy to Respondent at 268 North 115th Street, #5, Omaha, NE 68154 by certified mail, return receipt requested, on this 22nd day of November, 2002.



Stacy M. Bullock